

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Respondent,

v.

DANIEL ALFARO-MERCADO,
Petitioner.

No. 2 CA-CR 2018-0276-PR
Filed November 27, 2018

THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
NOT FOR PUBLICATION
See Ariz. R. Sup. Ct. 111(c)(1); Ariz. R. Crim. P. 31.19(e).

Petition for Review from the Superior Court in Pima County
No. CR035035
The Honorable D. Douglas Metcalf, Judge

REVIEW GRANTED; RELIEF DENIED

Daniel Alfaro-Mercado, Florence
In Propria Persona

STATE v. ALFARO-MERCADO
Decision of the Court

MEMORANDUM DECISION

Judge Brearcliffe authored the decision of the Court, in which Presiding Judge Staring and Chief Judge Eckerstrom concurred.

B R E A R C L I F F E, Judge:

¶1 Daniel Alfaro-Mercado seeks review of the trial court’s order dismissing his successive notice of post-conviction relief, filed pursuant to Rule 32, Ariz. R. Crim. P. We will not disturb that ruling unless the court abused its discretion. *See State v. Roseberry*, 237 Ariz. 507, ¶ 7 (2015). We find no such abuse here.

¶2 After a 1992 jury trial, Alfaro-Mercado was convicted of multiple counts of burglary, aggravated assault, and sexual assault, and one count of robbery, for which he was sentenced to prison terms totaling 41.5 years. We affirmed Alfaro-Mercado’s convictions and sentences on appeal, *State v. Alfaro-Mercado*, No. 2 CA-CR 92-0832 (Ariz. App. May 10, 1994) (mem. decision), and we denied relief on review of the trial court’s dismissal of two of his four prior Rule 32 proceedings,¹ *State v. Alfaro-Mercado*, No. 2 CA-CR 2013-0127-PR (Ariz. App. Aug. 26, 2013) (mem. decision); *State v. Alfaro-Mercado*, No. 2 CA-CR 2003-0411-PR (Ariz. App. Jan. 14, 2005) (decision order).

¶3 In July 2018, Alfaro-Mercado filed a “Pro-Se Motion Pursuant to Rule 32.4(d); Rule 32.5,” which the trial court treated as an untimely, successive notice of post-conviction relief. Alfaro-Mercado asserted he had been unable to raise “meritorious claims on appeal” because he had not been provided with the trial record and maintained that trial and appellate counsel had been ineffective. After providing a thorough and detailed procedural history of this matter, the court summarily dismissed the Rule 32 proceeding, correctly concluding Alfaro-Mercado’s successive notice, filed twenty-three years after the mandate on his direct appeal was issued, was untimely and precluded. *See* Ariz. R. Crim. P. 32.2(b), 32.4(a)(2)(D). This petition for review followed.

¹Alfaro-Mercado did not seek review from this court in the other Rule 32 proceedings.

STATE v. ALFARO-MERCADO
Decision of the Court

¶4 On review, Alfaro-Mercado asserts trial and appellate counsel were ineffective, his convictions violated double jeopardy protections, he is entitled to his juvenile court records, and his sentences were incorrect.² We have reviewed the record and the trial court's ruling and conclude it correctly rejected Alfaro-Mercado's claims. We therefore adopt the court's ruling. *See State v. Whipple*, 177 Ariz. 272, 274 (App. 1993) (when trial court has correctly ruled on issues raised "in a fashion that will allow any court in the future to understand the resolution[, n]o useful purpose would be served by this court rehashing the trial court's correct ruling in a written decision.").

¶5 Accordingly, we grant review but deny relief.

²To the extent Alfaro-Mercado did not raise some of these issues in the notice before us on review, we do not consider them. *See* Ariz. R. Crim. P. 32.9(c)(4)(B)(ii) (petition for review "must contain . . . issues the trial court decided that the defendant is presenting for appellate review").